

Article 4. Regulatory Exemptions for Certain Transportation Operations**§66263.40. Applicability.**

(a) This article establishes four special categories of variances for generators and transporters, and procedures for applying those variances. Each variance category corresponds to a type of hazardous waste transportation operation which, if conducted in accordance with the provisions of this article, poses an insignificant risk to human health or to the environment. These transportation operations, and the variance categories which apply to them, are defined in succeeding sections of this article as Emergency Response Incident (section 66263.43), PCB Waste (section 66263.44), Consolidation (section 66263.45) and Small Load (section 66263.46). Each specific variance category section has a specific applicability and set of requirements. The following general requirements shall apply to all sections, except where specifically exempted.

(b) RCRA hazardous waste shall not be transported under the provisions of this article, except as specifically provided.

(c) Except as provided in section 66263.44 for polychlorinated biphenyl (PCB) waste, extremely hazardous waste shall not be transported under the provisions of this article.

NOTE: Authority cited: Sections 208, 25143, 25150, 25161 and 25205.7, Health and Safety Code. Reference: Sections 25143, 25160, 25168, 25169 and 25169.1, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Change without regulatory effect amending subsections (a) and (c) filed 12-31-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 1).

§66263.41. General Requirements.

(a) A transporter shall not transport hazardous waste under the provisions of this article without being registered with the Department.

(b) A transporter who is granted a variance under the provisions of this article is exempt from the requirements of sections 25160, 25168 and 25169.1 of the Health and Safety Code regarding the use of the manifest, certification of vehicles and containers, and transporter insurance and from the requirements of this division adopted pursuant to those sections. In lieu of those requirements, the requirements of this article shall apply.

(c) The hazardous waste shall be transported in accordance with the regulations of the Department of California Highway Patrol (title 13, California Code of Regulations, article 3, commencing with section 1160, subchapter 6, chapter 2), the regulations of the U. S. Department of Transportation (DOT) (Code of Federal Regulations, Title 49, Parts 172, commencing with section 172.1, and 173, commencing with section 173.1), and the regulations of the EPA (Code of Federal Regulations, Title 40, Part 263, commencing with section 263.10). This paragraph shall not be construed to exempt the transporter from any other regulation unless expressly stated.

(d) A transporter who intends to operate under a variance category defined by this article shall apply to the Department by submitting a Transporter Regulatory Exemption Application/Variance form (Form DHS 8463, Rev. 1/91), provided by the Department, before initiating the operation and at each renewal of their Hazardous Waste Transporter Registration. The application shall be signed by the transporter and shall include the following information:

(1) name, mailing address, telephone number, EPA or State ID number and the Hazardous Waste Transporter Registration Number;

(2) the type or types and the physical characteristics and chemical composition of hazardous wastes to be transported under each variance;

(3) the specific section of this article corresponding to the variance category that best describes the transporter's intended operation(s) during the subsequent year;

(4) the estimated quantities of hazardous wastes listed pursuant to subparagraph (2) of this subsection.

(e) The Department shall review the application/variance form for completeness and for applicability of the provisions of this article to the intended transportation operation. A variance granted pursuant to this article shall be effective upon completion of the application/variance form by the Department and issuance to the transporter, in accordance with Health and Safety Code section 25143 and section 66260.210 of this division.

(f) Any transporter applying for and receiving a variance under this article shall be exempt from the variance fee prescribed in subdivision (g) of the Health and Safety Code, section 25205.7, provided such exemption is specifically requested in the application and specifically authorized by the Department.

(g) The transporter shall send a copy of the variance to the generator prior to operating under the variance to evidence authority for such operation.

(h) An accident report regarding any hazardous waste transported pursuant to this article shall be submitted to the Department by the transporter within 10 days of an incident which results in a spill or release to the environment.

(i) Failure to comply with any applicable term of this article shall automatically nullify the exemption.

NOTE: Authority cited: Sections 208, 25143, 25159 and 25205.7, Health and Safety Code. Reference: Section 25143, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66263.42. Specific Requirements for Milkrun Operations.

NOTE: Authority cited: Sections 208, 25143, 25150 and 25161, Health and Safety Code. Reference: Sections 25117.9, 25143, 25160, 25168, 25169 and 25169.1, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Change without regulatory effect amending subsection (d) filed 8-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 35).
3. Change without regulatory effect repealing section filed 12-31-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 1).

§66263.43. Specific Requirements for Emergency Response Incident Operations.

(a) A transporter operating in accordance with this section shall be a state, local or county governmental agency emergency response incident unit.

(b) There shall be no restriction on the types of hazardous waste transported by the transporter specified in subsection (a).

(c) The total quantity shall not exceed five 85-gallon drums of hazardous waste from any incident site transported to the transporter's central collection facility.

(d) The transporter is exempt from the requirements of sections 66263.11(a)(1)(B), 66263.11(a)(3) and 66263.13 regarding the vehicles and containers used to transport the hazardous wastes pursuant to this section.

(e) The transporter is exempt from the requirements of sections 66263.20 and 66263.21 regarding the use of the manifest. In lieu of the manifest, the transporter shall use a shipping paper which contains all the information required pursuant to Title 49, Code of Federal Regulations, Part 172, Subpart C. The shipping paper must accompany the hazardous waste when transported from the incident site to the transporter's central collection facility.

(f) Transportation of the hazardous waste from the transporter's central collection facility to a hazardous waste facility shall be performed by a registered hazardous waste transporter using certified vehicles and/or containers. The hazardous waste shall be delivered to a permitted facility or to a facility which has been granted interim status, or to a facility which has been otherwise authorized to receive hazardous waste pursuant to chapter 6.5 of the division 20 of the Health and Safety Code and implementing regulations. The hazardous waste shall be properly manifested in accordance with the requirements of this chapter on the use of the Uniform Hazardous Waste Manifest.

(g) In addition to the information required in the application submitted pursuant to section 66263.40(a)(3), the transporter shall provide the location of the central collection facility.

(h) Hazardous waste at the transporter's central collection facility shall be stored for no longer than 90 days and managed in accordance with section 66262.34.

(i) The transporter shall keep records of the types and quantities of hazardous wastes handled under this section at the central collection facility on an annual basis. These records shall be retained for a period of three years from the date the record was completed.

(j) The period of retention referred to in this section is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

NOTE: Authority cited: Sections 208, 25143, 25150 and 25161, Health and Safety Code. Reference: Sections 25143, 25160, 25168, 25169 and 25169.1, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66263.44. Specific Requirements for PCB Waste Operations.

(a) A transporter operating in accordance with this section shall be any governmental agency or public utility that transports polychlorinated biphenyl (PCB) wastes generated within the transporter's service area. The transporter shall also be the generator of the PCB wastes.

(b) The transporter is exempt from the requirements of sections 66263.11(a)(1)(B), 66263.11(a)(3) and 66263.13 regarding the vehicles and containers used to transport the PCB wastes pursuant to this section.

(c) In addition to the information required in the application submitted pursuant to section 66263.40(a)(3), the transporter shall provide the location of the central collection facility.

(d) The transporter is exempt from the requirements of sections 66263.20 and 66263.21 regarding the use of the manifest. In lieu of the manifest, the transporter shall use a shipping paper which contains all the information required pursuant to Title 49, Code of Federal Regulations, Part 172, Subpart C. The shipping paper must accompany the PCB wastes when transported from the transporter's service area to the transporter's central collection facility.

(e) Transportation of the PCB wastes from the transporter's central collection facility to a hazardous waste facility shall be performed by a registered hazardous waste transporter using certified vehicles and/or containers. The PCB wastes shall be delivered to a permitted facility or to a facility which has been granted interim status, or to a facility which has been otherwise authorized to receive hazardous waste pursuant to chapter 6.5 of division 20 of the Health and Safety Code and implementing regulations. The PCB wastes shall be properly manifested in accordance with the requirements of this chapter on the use of the Uniform Hazardous Waste Manifest.

(f) Handling practices and storage time of the PCB wastes shall be allowed the same exemptions described

in section 66263.18 of this chapter, when applied to handling and storage at transfer facilities.

(g) The transporter shall keep records of the total quantities of PCB wastes handled at the central collection facility on an annual basis. These records shall be retained for a period of three years from the date the record was completed.

(h) The period of retention referred to in this section is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

NOTE: Authority cited: Sections 208, 25143, 25150 and 25161, Health and Safety Code. Reference: Sections 25143, 25160, 25168, 25169 and 25169.1, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66263.45. Specific Requirements for Consolidation Operations.

(a) A transporter operating in accordance with this section shall be any person that transports hazardous waste to a nonpermitted, temporary, hazardous waste storage facility in accordance with section 66263.18 for the purpose of consolidation of waste loads. The transporter shall also be the generator of the hazardous waste.

(b) The transporter is exempt from the requirements of sections 66263.11(a)(1)(B), 66263.11(a)(3) and 66263.13 regarding the vehicles and containers used to transport the hazardous waste pursuant to this section.

(c) In addition to the information required in the application submitted pursuant to section 66263.40(a)(3), the transporter shall provide the location of the temporary hazardous waste storage facility.

(d) The transporter is exempt from the requirements of sections 66263.20 and 66263.21 regarding the use of the manifest. In lieu of the manifest, the transporter shall use a shipping paper which contains all the information required pursuant to Title 49, Code of Federal Regulations, Part 172, Subpart C. The shipping paper must accompany the hazardous wastes when transported from the place of generation to the transporter's temporary storage facility.

(e) This section applies only to hazardous wastes that are either:

(1) collected from generators who meet the requirements of title 40 of the Code of Federal Regulations, section 261.5(a) and 261.5(g), as of July 1, 1988; or

(2) collected from generators of non-RCRA hazardous wastes totaling less than 100 kilograms per calendar month.

(f) The total quantity of each load of hazardous waste transported from the original generation location(s) to the temporary storage facility shall not exceed 100 kilograms.

(g) Transportation of the hazardous wastes from the temporary storage facility to a hazardous waste facility shall be performed by a registered hazardous waste transporter using a certified vehicle and/or containers. The hazardous waste shall be delivered to a permitted facility or to a facility which has been granted interim status, or to a facility which has been otherwise authorized to receive hazardous wastes pursuant to chapter 6.5 of division 20 of the Health and Safety Code and implementing regulations. The hazardous waste shall be properly manifested in accordance with the requirements of this chapter on the use of the Uniform Hazardous Waste Manifest.

(h) Handling practices and storage time of the hazardous wastes shall be allowed the same exemptions described in section 66263.18 of this chapter, when applied to handling and storage at transfer facilities.

NOTE: Authority cited: Sections 208, 25143, 25150 and 25161, Health and Safety Code. Reference: Sections 25143, 25160, 25168, 25169 and 25169.1, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66263.46. Specific Requirements for Small Load Operations.

(a) A transporter operating in accordance with this section shall only transport hazardous wastes in amounts no greater than 100 kilograms per load and no greater than 1,000 kilograms per calendar month, which is the total quantity of hazardous waste which shall be hauled by the transporter.

(b) This section applies only to hazardous wastes that are either:

(1) subject to reclamation agreements with generators of greater than 100 kilograms per month but less than 1,000 kilograms per month pursuant to the requirements of Title 40 of the Code of Federal Regulations, sections 262.20(e) and 263.20(h), as of July 1, 1988; or

(2) collected from generators who meet the requirements of Title 40 of the Code of Federal Regulations, sections 261.5(a) and 261.5(g), as of July 1, 1988; or

(3) collected from generators of non-RCRA hazardous wastes totaling less than 100 kilograms per calendar month.

(c) The transporter is exempt from the requirement to provide proof of ability to provide adequate response to damages pursuant to section 66263.11(a)(2).

(d) The transporter is exempt from the requirements of sections 66263.11(a)(1)(B), 66263.11(a)(3) and 66263.13 regarding the vehicles and containers used to transport the hazardous wastes pursuant to this section.

(e) The transporter shall only deliver the hazardous waste to a permitted facility or to a facility which has been granted interim status, or to a facility which has been otherwise authorized to receive hazardous wastes pursuant to chapter 6.5 of division 20 of the Health and Safety Code and implementing regulations.

(f) The transporter is exempt from the requirements of sections 66263.20 and 66263.21 regarding the use of

the manifest. In lieu of the manifest, the transporter shall use a shipping paper which contains all the information required pursuant to Title 49, Code of Federal Regulations, Part 172, Subpart C. The shipping paper must accompany the hazardous wastes when transported from the place of generation to the facility designated pursuant to subsection (e). In addition, the transporter shall include the name, address and EPA Identification Number of the designated facility on the shipping paper.

NOTE: Authority cited: Sections 208, 25143, 25150 and 25161, Health and Safety Code. Reference: Sections 25143, 25160, 25168, 25169 and 25169.1, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).